

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

L. Tim Wagner

Director



Dave Heineman
Governor

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CB-49 (Amended)

BULLETIN

SUBJECT: PAYMENT OF SPECIAL COSTS ON PROPERTY LOSSES

The subject of payment or nonpayment of special costs (such as sales tax, luxury tax, and other applicable taxes or surcharges) on property losses (including total losses) has come to the attention of this Department. This bulletin is designed to address payment of these special costs.

The purpose and theory of insurance is indemnification; that is, to put one back into the position they were in before the loss. This indemnification principle is applicable not only to first party claims, but also to third party claims where statutes and case law apply instead of contractual obligations.

This Department takes the position that these special costs must be paid whether a first party or third party settlement is involved. It is important to note in Nebraska that there is no sales tax imposed on vehicles used as common or contract carrier purposes. This exemption is found in Neb.Rev.Stat. §77-2704.50. Other types of commercial vehicles can be subject to sales tax, and special costs must be paid on these commercial vehicles.

For a stated-value policy, payment of special costs would not prompt payment above a policy's stated value amount.

The following guidelines may offer assistance:

1. Special costs must be paid on loss settlements where the property is replaced. The amount reimbursable shall be based on the value of the pre-loss property, not on the value of the replacement property, unless the pre-loss property value is greater than that of the replacement, in which case, payment will be based on the value of the replacement property.
2. Special costs payment need not be a part of the settlement when the property is not replaced.

3. Reimbursement may be made as a supplemental payment when actual replacement occurs.
4. If the actual cash value settlement amount has met the stated value shown on the declarations page of a stated value policy, then special costs need not be paid.

Failure to comply with the above requirements will be considered a violation of the Nebraska Unfair Insurance Claims Settlement Practices Act. Questions may be directed to the Consumer Affairs Division.

L. Tim Wagner
Director